

SENATE BILL

No. 1338

Introduced by Senator Harman
(Coauthor: Assembly Member Conway)

February 19, 2010

An act to amend Section 487 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as amended, Harman. Grand theft: farm crops.

Existing law provides that grand theft is committed when domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding \$250. Existing law provides a method for establishing the value of avocados or citrus fruit for purposes of this offense based on wholesale value.

This bill would provide that this same method may be used to establish the value of the other products listed above for purposes of determining if a taking is grand theft.

This bill would incorporate amendments to Section 487 of the Penal Code proposed by AB 2372, if both this bill and AB 2372 are enacted and become effective on or before January 1, 2011, and this bill is enacted after AB 2372.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 487 of the Penal Code is amended to
2 read:

1 487. Grand theft is theft committed in any of the following
2 cases:

3 (a) When the money, labor, or real or personal property taken
4 is of a value exceeding four hundred dollars (\$400) except as
5 provided in subdivision (b).

6 (b) Notwithstanding subdivision (a), grand theft is committed
7 in any of the following cases:

8 (1) (A) When domestic fowls, avocados, olives, citrus or
9 deciduous fruits, other fruits, vegetables, nuts, artichokes, or other
10 farm crops are taken of a value exceeding two hundred fifty dollars
11 (\$250).

12 (B) For the purposes of establishing that the value of domestic
13 fowls, avocados, olives, citrus or deciduous fruits, other fruits,
14 vegetables, nuts, artichokes, or other farm crops under this
15 paragraph exceeds two hundred fifty dollars (\$250), that value
16 may be shown by the presentation of credible evidence which
17 establishes that on the day of the theft domestic fowls, avocados,
18 olives, citrus or deciduous fruits, other fruits, vegetables, nuts,
19 artichokes, or other farm crops of the same variety and weight
20 exceeded two hundred fifty dollars (\$250) in wholesale value.

21 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
22 other aquacultural products are taken from a commercial or
23 research operation which is producing that product, of a value
24 exceeding two hundred fifty dollars (\$250).

25 (3) Where the money, labor, or real or personal property is taken
26 by a servant, agent, or employee from his or her principal or
27 employer and aggregates nine hundred fifty dollars (\$950) or more
28 in any 12 consecutive month period.

29 (c) When the property is taken from the person of another.

30 (d) When the property taken is any of the following:

31 (1) An automobile, horse, mare, gelding, any bovine animal,
32 any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar,
33 gilt, barrow, or pig.

34 (2) A firearm.

35 *SEC. 1.5. Section 487 of the Penal Code is amended to read:*

36 487. Grand theft is theft committed in any of the following
37 cases:

38 (a) When the money, labor, or real or personal property taken
39 is of a value exceeding ~~four hundred dollars (\$400)~~ *nine hundred*
40 *fifty dollars (\$950)*, except as provided in subdivision (b).

(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:

(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding two hundred fifty dollars (\$250).

(B) For the purposes of establishing that the value of ~~avocados or citrus fruit~~ domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops under this paragraph exceeds two hundred fifty dollars (\$250), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft *domestic fowls, avocados, olives, or citrus fruit or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops* of the same variety and weight exceeded two hundred fifty dollars (\$250) in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars (\$250).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates nine hundred fifty dollars (\$950) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is any of the following:

(1) An automobile, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.

(2) A firearm.

~~(e) This section shall become operative on January 1, 1997.~~

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 487 of the Penal Code proposed by both this bill and AB 2372. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 487 of the Penal Code, and (3) this bill is enacted after AB 2372, in which case Section 1 of this bill shall not become operative.